

April \_\_, 2017

**NOTICE OF SETTLEMENT OF LAWSUIT**

**(with attached form to obtain a settlement payment)**

**TO:** All current and former Route Sales Professionals employed by Utz Quality Foods, Inc. between March 1, 2014 and September 30, 2016.

**FROM:** Chief Judge Christopher C. Conner, United States District Court for the Middle District of Pennsylvania.

This Notice informs you of the settlement of a wage-and-hour lawsuit brought by Jason Swiger and Julio Cruz on behalf of all other similarly-situated Route Sales Professionals (“RSPs”) of Utz Quality Foods, Inc. (“Utz”).

**1. INTRODUCTION AND SUMMARY**

The Settlement announced by this Notice makes compensation available to current and former Route Sales Professionals employed by Utz Quality Foods, Inc. between March 1, 2014 and September 30, 2016. The Settlement is supported by Jason Swiger and Julio Cruz who served as FLSA Class Representatives in a federal lawsuit against Utz and was negotiated by Class Counsel who represents them in that case.

**TO PARTICPIATE IN THE SETTLEMENT, YOU MUST RETURN THE ATTACHED FORM**

**2. THE LAWSUIT**

On September 15, 2015, a lawsuit seeking payment for overtime compensation was filed against Utz on behalf of all Utz RSPs. The lawsuit alleges that Utz misclassified RSPs as “exempt” and failed to pay RSPs, including Jason Swiger and Julio Cruz, overtime compensation at the rate of one and one-half times their regular rate of pay for the hours they worked over 40 each workweek. The lawsuit asserts claims under the federal Fair Labor Standards Act and various state wage and hour laws, seeking overtime compensation for all RSPs. Utz has denied liability and violations of state and federal wage and hour laws.

**3. THE SETTLEMENT**

To avoid the time, cost, fees and uncertainty of further litigation, the Settlement was reached between the FLSA Class Representatives and Utz and has been approved by the U.S. District Court as fair, reasonable, and adequate. The terms of the Settlement are summarized below.

### **A. Settlement Payments to Utz Route Sales Professionals and Released Claims**

The Total Eligible Settlement Payment is \$2,500,00.00. Approximately \$1,562,856.60 will be divided into Individual Payments for all of the employees who are eligible to join the Settlement. The Individual Payments have been calculated proportionally on each employee's alleged overtime damages during the Calculation Period, which is March 1, 2014 and September 30, 2016, for those who seek to join the case at this time.

The deductions include \$33,850.00 in Class Representative Payments to various Class Members based on their involvement in the matter, assistance to Class Counsel, and their execution of a general release as follows: (1) Jason Swiger and Julio Cruz in the amount of \$15,000.00 each for serving as FLSA Class Representatives; (2) Julia Williams and Tom Holt in the amount of \$500.00 each for serving as Rule 23 Class Representatives; (3) Jamie Wallet and Steven Cosentine in the amount of \$500.00 each for serving as Discovery Class Representatives; and (4) Anthony Biondino, Charles Shakal, and Jeremy Weaver in the amount of \$450.00 each for serving as Discovery Class Representatives. Additionally, \$833,333.33 will be deducted for attorneys' fees to Class Counsel, as well as actual litigation expenses of approximately \$69,960.07, incurred in the Action. In exchange, the lawsuit will be dismissed, and participating employees will release Utz Quality Foods, Inc. from any and all federal and state wage-and-hour claims that were or could have been asserted in the lawsuit. Utz Quality Foods, Inc. will retain the overtime payments of any employees who do not join the FLSA Settlement.

### **B. Advantages of the Settlement and Class Counsel's Recommendation**

Class Counsel recommend the Settlement. It offers settlement payments to Class Members, without the delay, uncertainty, and risk of continuing with the lawsuit.

During the Calculation Periods, Class Counsel estimates that employees were allegedly owed approximately \$10,154,886.93 in overtime compensation for ten (10) overtime hours per workweek or \$5,641,603.85 in overtime compensation for five (5) overtime hours per workweek. During the two-year limitation period, Class Representatives and Class Members were allegedly denied \$6,786,233.14 in overtime compensation for ten (10) overtime hours per workweek or \$3,770,129.52 in overtime compensation for five (5) overtime hours per workweek. Thus, Employees who return the attached form will recover approximately 31.1% of their alleged overtime damages over the 3-year limitations period, and 46.6% of their alleged overtime damages over the 2-year limitations period, before deductions, assuming employees worked an average of 47.5 hours per week.

#### **4. HOW TO RECEIVE YOUR SETTLEMENT PAYMENT**

**To participate in the Settlement, you must complete and return the attached Form entitled “Consent and Release Form” no later than June \_\_, 2017.** You can return the Consent and Release Form by: (a) signing it electronically (eSigning) via PDF; (b) mailing it to Class Counsel in the self-addressed and postage-prepaid envelope included with this Notice; (c) faxing the form to Class Counsel at 216-696-7005; (d) scanning the form and emailing it to Class Counsel at [consent@lazzarolawfirm.com](mailto:consent@lazzarolawfirm.com). If your address has changed or changes before you receive your settlement payment, you must provide your name and current mailing address to Class Counsel.

Utz, through the use of an Administrator, will issue the Individual Payment checks payable to the employees and mail them via First-Class Mail within five (5) business days after the District Court’s final approval orders have become final and non-appealable. Half of the Individual Payment will be a payroll check, for which employees will receive a W-2 payment, less federal and state tax withholdings, garnishments, child support, and other deductions required by law, and half will be a non-payroll check, for which employees will receive a 1099-Misc.

**FORMS MUST BE FAXED, EMAILED OR POSTMARKED BY JUNE \_\_, 2017**

#### **5. FURTHER INFORMATION**

Further information about the settlement may be obtained from Class Counsel whose contact information is below.

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**PLEASE DO NOT CONTACT THE COURT**

**THIS NOTICE HAS BEEN AUTHORIZED BY THE HONORABLE CHIEF JUDGE CHRISTOPHER C. CONNER OF THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF PENNSYLVANIA. THE COURT HAS TAKEN NO POSITION IN THIS CASE REGARDING THE MERITS OF PLAINTIFFS' CLAIMS OR OF UTZ'S DEFENSES**

## CONSENT AND RELEASE FORM

By signing and returning this form, I consent to opt into the lawsuit, *Swiger, et al. v. Utz Quality Foods, Inc*, Case No. 1:15-cv-02196 (the “Lawsuit”), pending in the Middle District of Pennsylvania.

**I understand that I will receive an Individual Payment for overtime compensation in the amount of \_\_\_\_.** Half of this payment will be a payroll check, for which I will receive a W-2, less federal and state tax withholdings and deductions required by law, and half will be a non-payroll check for which I will receive a 1099-Misc.

I agree to be represented by The Lazzaro Law Firm, LLC and Nilges Draher LLC and to be bound by the settlement. I consent to the dismissal of the Lawsuit and my claims by and through FLSA Class Representatives. I designate FLSA Class Representatives, The Lazzaro Law Firm, LLC, and Nilges Draher LLC to execute all appropriate documents to effectuate my payment and the settlement of the Lawsuit.

I hereby release Utz Quality Foods, Inc. from all federal and state wage-and-hour claims, rights, demands, liabilities and causes of action asserted in FLSA Class Representatives’ Complaint, including but not limited to claims for unpaid wages, unpaid overtime compensation, liquidated damages, interest, attorneys’ fees, and expenses, pursuant to the Fair Labor Standards Act and applicable state laws. The Released Period is the date I first began my employment with Utz and the date the District Court enters final approval of the FLSA Settlement.

**I have carefully read and fully understand all items in this agreement and am voluntarily signing it.** I understand that if I have any questions, I know I have the right to discuss this agreement with The Lazzaro Law Firm, LLC and/or Nilges Draher LLC. I also understand that any issues relating to this agreement will be addressed under the laws of the Commonwealth of Pennsylvania.

**PLEASE READ AND CONSIDER THIS AGREEMENT CAREFULLY BEFORE EXECUTING THIS AGREEMENT. THIS AGREEMENT INCLUDES A RELEASE OF ALL WAGE AND HOUR CLAIMS.**

{First Name Last Name}

{Address}

{City, State Zip}

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

*Please make any address corrections:*

*Please provide your phone number  
and email address:*

Street Address: \_\_\_\_\_

Phone: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_ Email \_\_\_\_\_

**eSign via PDF or return to:**

The Lazzaro Law Firm, LLC / 920 Rockefeller Building / 614 W. Superior Avenue  
/ Cleveland, Ohio 44113

Fax: 216-696-7005

Email: [consent@lazzarolawfirm.com](mailto:consent@lazzarolawfirm.com)

**Must be eSigned, postmarked, faxed, or emailed by June \_\_, 2017**